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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
ALEXANDRIA DIVISION

PHILLIP HEARD #777907,
Plaintiff

CIVIL DOCKET NO. 1:23-CV-01009
SEC P

VERSUS

JUDGE DRELL

SHERIFFS OFFICE RAPIDES
PARISH ET AL,
Defendants

MAGISTRATE JUDGE PEREZ-MONTES

MEMORANDUM ORDER

Before the Court is a civil rights Complaint under 42 U.S.C. § 1983 filed by pro se Plaintiff Phillip Wayne Heard (“Heard”). Heard is an inmate at the Avoyelles Marksville Detention Center. He claims that he was denied medical care while in the custody of the Rapides Parish Sheriff.

To determine whether Heard is entitled to relief, his Complaint will be SERVED on Defendant Head Nurse Evelynne.¹

I. Background

Heard alleges that his hand was injured in an “altercation” in October 2022. ECF No. 1 at 3. One week later, he was able to see a nurse, who requested x-rays. Another week later, x-rays confirmed that Heard’s hand was broken. The physician’s

¹ Service is being withheld as to the Rapides Parish Sheriff’s Office because a sheriff’s office or department is not a legal entity capable of being sued. *See Cozzo v. Tangipahoa Parish Council--President Gov’t*, 279 F.3d 273, 283 (5th Cir. 2002); *Sipes v. City of Monroe*, 11-CV-1668, 2013 WL 1282457, at *3 (W.D. La. Mar. 28, 2013) (collecting cases).

assistant instructed Nurse Evelynne to schedule an appointment with an orthopedic surgeon. *Id.*

Heard was placed in an isolation cell “directly across from the nursing/medical station.” ECF No. 8. He requested follow-up from Nurse Evelynne every day thereafter until he was transferred to another facility four months later. *Id.* Heard asserts that all of his requests for treatment were ignored, including requests for pain relievers, and he was never examined by the orthopedic surgeon as ordered by the physician’s assistant. *Id.*

II. Law and Analysis

To determine whether Heard is entitled to damages, THE CLERK IS DIRECTED to serve upon Heard at his last known address a copy of this Order, two (2) summons forms, and one (1) USM-285 form for Defendant Head Nurse Evelynne.

Heard must then furnish to the Clerk of Court, 515 Murray Street, Alexandria, LA 71301, within thirty (30) days after service of this Order:

- one (1) copy of the COMPLAINT;
- two (2) completed SUMMONSES; and,
- one (1) completed USM-285 FORM

for Defendant Head Nurse Evelynne. After the foregoing documents have been furnished,

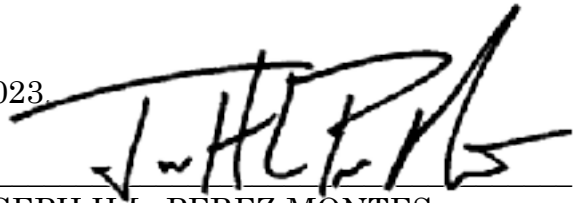
THE CLERK IS DIRECTED to serve Defendant Head Nurse Evelynne through the United States Marshals Service, with a copy of the Complaint, the appropriate summons, and a copy of this Order.

IT IS ORDERED that Defendant file a response to the Complaint within twenty-one (21) days after service.

The parties shall have a period of sixty (60) days following the filing of an answer to complete all appropriate discovery.

Thereafter, if deemed appropriate, Plaintiff or Defendant may file a motion for summary judgment within thirty (30) days of the end of discovery, to include material and relevant affidavits, certified records, interrogatories and answers, admissions and depositions, if any, and a supporting memorandum brief. If, in violation of this Order, a motion for summary judgment or alternative motion for summary judgment is filed before an answer is filed or before the time for discovery has elapsed, the motion for summary judgment will be summarily denied or stricken as in violation of this Order, and sanctions may be imposed.

SIGNED on Tuesday, December 19, 2023.

A handwritten signature in black ink, appearing to read 'J. H. L. P. M.', written over a horizontal line.

JOSEPH H.L. PEREZ-MONTES
UNITED STATES MAGISTRATE JUDGE